

Howard Planning and Zoning Minutes



MINUTES HOWARD COUNTY PLANNING & ZONING May 21, 2014

A meeting of the Howard County Planning & Zoning Commission was convened in Open and Public session on the 21st of May, 2014 in the Assembly Room of the Howard County Courthouse, St. Paul, Nebraska.

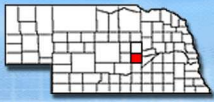
Chairman Terry Spilinek called the meeting to order at 8:02 P.M. The Open Meeting Act is posted in the rear of the room. Administrator Klinginsmith read the Notice of Meeting. A proof of publication is filed at the Howard County Clerk's office.

Roll call showed 7 members present: Daryl Anderson, Ken Kozisek, Dave Sack, Terry Spilinek, Randy Kauk, Ron Kulwicki and Jeff Christensen. Those absent were: Jack Reimers and Lauren Scarborough. Also present were Cherri Klinginsmith, Planning & Zoning Administrator, Molly Tebo, Zoning Secretary, Myron Perrel, Lesley Dugan, Julia Wright, Jim Ryan, Randy Faaborg, Linda Polski and Jerry Polski.

The Agenda and Minutes were e-mailed to the Board Members prior to the meeting. A motion was made by Jeff Christensen and seconded by Ken Kozisek to approve the minutes of the April 16, 2014 meeting. The motion carried on unanimous voice vote.

Old business: Cherri Klinginsmith informed the Board that 5 of the 6 Villages want to be included in the Comprehensive Plan. Cherri is still waiting to hear from Farwell. The deadline to be included in the Plan is May 30.

At 8:07 P.M. the Public Hearing for a Conditional Use Permit (CUP) application by Midland Telecom updating the existing communication tower in the SE ¼ of Section 17-15-11, located on 1644 Page Road, Elba, NE, was opened. Cherri read the Notice of Public Hearing. Randy Faaborg from Midland Telecom stated they have had a tower at that location since 1992. A cell phone company that rents the tower wants to take 3 antennas off and put 2 new ones on. They contacted the Planning & Zoning Office and Cherri informed them there was never a CUP filed. She recommended that Midland Telecom file for one. Jerry and Linda Polski were present and provided testimony opposing the request. The Polskis own the land the tower is located on. Linda Polski stated they have a contract with Midland Telecom but did not receive a copy of it until 2013. The contract states the land shall be used for construction and location of a radio transmission tower and related equipment. It does not say anything about cell phones or internet. Linda stated the company absolutely does not have a permit and never did. The Polskis would like time to contact their attorney to discuss this matter so they are **not** in favor of the request. Jerry Polski stated he had a company from California (AP Wireless) who was interested in the land around the tower. Jerry informed AP Wireless that another company owned the tower. AP Wireless reviewed the contract and stated there was nothing in the contract that said the tower was for cell phones. Cherri stated there is a Building Permit dated 2004 for an un-manned communication facility 400' guyed tower which was approved. One question on the permit asks "Is a conditional use required for the proposed site" and it is marked "No-Replacement". The next question asks "Has a CUP been issued for this proposed use" and it



Howard Planning and Zoning Minutes



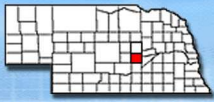
is marked “Yes”; however Cherri cannot find any record of a public meeting. Ken Kozisek asked Jerry Polski if his goal was to ultimately have the tower removed and Jerry stated he wouldn’t mind.

A building permit dated 4-14-92 was found but there was no CUP attached to it. Daryl Anderson asked if CUPs were required in 1991; Cherri looked through the regulations at that time and there was nothing documented. Since there were no regulations in 1991, it’s possible the tower that was replaced in 2004 was grandfathered in. A motion was made by Dave Sack to table the CUP for Midland Telecom until the next meeting. Ron Kulwicki seconded the motion and the motion carried.

The next item for discussion was the Loup Central Landfill addition of a Leachate Cleanout that was not included on the original Conditional Use Permit (CUP) as a phase. Jim Ryan, Loup Central Landfill, stated they need to add a phase onto the landfill. They have a lift station that pumps the water up to the Leachate pond. They are proposing to gravity flow it down and do away with the lift station. The landfill contacted the DEQ to inform them of the modification and DEQ stated they are going to have a 30 day public notice period on the modification. Mr. Ryan contacted Cherri to find out if the Zoning Board needed to have a hearing on the modification as well. Terry Spilinek stated the landfill needs to let DEQ go through the 30 day period and once they have approved the plan then the landfill can contact our office to apply for a CUP.

The next item for discussion was a farmer wanting to build within an odor footprint. Myron Perrel lives at 545 Eagle Road in St. Libory and wants to build another residence on his place. He visited with Cherri and she informed him that the location of where he wants to build the house is within an odor footprint. Mr. Perrel wanted to know if there were any efforts he could go through to get a variance change. He stated that south of St. Libory there is a housing area where some of the houses are within an odor footprint. Cherri stated the houses Mr. Perrel are questioning are outside the odor footprint. Cherri also stated that the setback requirements have changed several times throughout the years. Randy Kauk asked Cherri if the footprint that Mr. Perrel wants to build in is active. Cherri stated it is but there is currently no livestock on the property. The owner (Julia Wright) has until June 30 to acquire livestock otherwise she will not be able to keep her Class I odor footprint. If her odor footprint lapses, then Mr. Perrel will be able to apply for a building permit. If Ms. Wright acquires livestock before June 30, Mr. Perrel will have to go to the Variance Board for his request because the Planning & Zoning Board cannot approve his request.

The next item for discussion was TLC Livestock Conditional Use Permit (CUP) for an odor footprint. Lesley Dugan and Julia Wright, TLC LLC, would like to request a meeting with the Variance Board. In November 2013, they shipped out hogs. On January 31, 2014, Julie had shoulder surgery and was not able to acquire hogs. She recently found out she needs to have foot surgery which will require 12 weeks of recuperation. Ms. Wright is approaching the 6 month period of not having any livestock and is in jeopardy of losing her Class I odor footprint. For health reasons, Ms. Wright is requesting a meeting with the Variance Board to ask for a reprieve for the remainder of 2014 to not have to meet the requirement. The Board suggested Ms. Wright meet with the Variance Board at their next meeting.



Howard Planning and Zoning Minutes



The next item for discussion was updating Zoning regulations regarding cell towers. Cherri stated Howard County currently does not have any regulations regarding cell towers. She reviewed a few regulations from other counties in Nebraska. Some counties have a distance requirement between every tower (5 miles), and some have a height requirement. Jeff Christensen asked Randy Faaborg if there is any technical reason why there would be a 5 mile distance requirement and Randy stated that would be a major contradiction because you want a tower as close to a population for penetration purposes. Cherri also stated they all require a Conditional Use Permit. Cherri asked Randy to e-mail her additional information on cell phone towers. Cherri will write some suggested regulations and present them to the board at the next meeting.

The last item for discussion was regarding LB 550. Cherri reviewed the answers that were provided by Steve Martin from the Department of Agriculture on the Livestock Friendly County (LFC) program. The Commissioners want the board's recommendation because they would have to apply for the program. After further discussion, a motion was made by Jeff Christensen and seconded by Dave Sack that the board has some concerns about future possible implications/regulations that may come from the Department of Agriculture if Howard County applied for the program. Jeff Christensen asked to see the application and Cherri will provide the members a copy.

At 9:45 P.M. a motion was made by Dave Sack and seconded by Randy Kauk to adjourn. The motion carried by unanimous voice vote. The next meeting will be scheduled for June 18, 2014.

Molly Tebo, Secretary